

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION

WRIT PETITION NO.489 OF 2005

Hindustan Lever Employees' Union Petitioner

versus

Grocery Market and Shops Board
for Greater Bombay and others Respondents

Mr.Sanjay Singhvi with Ms.Jane Cox for petitioner

Mr.S.R.Nargolkar for respondent no.1.

Mr.P.K.Rele, Senior Advocate with R.N.Shah i/by
Piyush Shah for respondent no.2.

WITH
WRIT PETITION (LODGING) NO.934 OF 2005

Hindustan Lever Limited Petitioner

versus

Grocery Market and Shops Board
for Greater Bombay and others Respondents

Mr.P.K.Rele, Senior Advocate with R.N.Shah i/by
Piyush Shah for petitioner.

Mr.S.R.Nargonkar for respondent no.1.

Mr.Sanjay Singhvi with Ms.Jane Cox for respondent
no.3.

Mr.S.M.Dixit for respondent no.2.

CORAM : H.L.GOKHALE AND
S.C.DHARMADHIKARI, JJ.

DATE : 07th April 2005

PC :

1. The first of these two petitions is filed by the employees union representing Mathadi Workers working in Hindustan Lever Limited and where the rights including wages and other working conditions of the employees are governed by the Grocery Market and Shops Board for Greater Bombay (hereinafter referred to as "Board"). A bipartite settlement between the employees represented by their union on one hand and Hindustan Lever Ltd. was lastly entered in the year 1997 and it governed their wages and various service conditions. The same was terminated by the union representing the employees and fresh Charter of Demands was served. That charter of demands has led to an award/decision dated 26th November 2004 made by the Deputy Commissioner of Labour, who is the President of the Board. The award is made effective from 1st November 2000. This petition filed by the union is for enforcement of this award whereas the second petition filed by the management is to challenge this award as well as another communication dated 11th October 2004 under which the Secretary of the Board has called upon the management to pay the wages along with the levy for the period 12th

August 2004 to 30th September 2004 totalling to Rs.1,66,683.35 Ps..

2. Rule on both the petitions and the same are made returnable forthwith with the consent of the counsel for all the parties. Affidavits in reply are already filed. Counsel are heard.

3. Mr.Singhvi appearing for the union has defended the award and has submitted that it is immensely justified. He has pointed out that the company concerned is a leader in the products that it manufactures and sells and has huge profits. All its top officers are receiving remunerations which are far better than many other comparable concerns. He has pointed out that under the award the minimum assured wage which is provided is much less than what would be payable in other similarly comparable concerns. He has pointed out that the Board has considered all necessary factors and then arrived at the award which assures minimum monthly wage of Rs.6,000/- per month which also gives certain escalation in the rates along with other benefits.

4. Mr.Rele, learned Senior Counsel for

management, on the other hand, has pointed out that there is no justification in the above order as to why this minimum assured wage of Rs.6,000/- per month is arrived at as also why the revision in the allowances to the tune of 65% has been granted. He has drawn our attention to the correspondence which shows that the management has at all the times been insisting to reduce the complement of employees and that the increase in wages could be made only if the complement is reduced, since in his submission, the tonnage which was required to be lifted by the employees was not as much as it was earlier.

5. Although both the counsel have made their submissions as noted above, both of them have agreed that it would be desirable that the authority concerned has a relook at the charter of demands made by the employees. The management is keen that the complement of the employees is reduced and has sought that the same be examined along with the demand for revision of the wages made by the employees. That aspect has to be looked into by the authority, provided it is permissible in law. Mr.Rele appearing for management has stated that if the award is set aside and if the authorities are directed to have

a relook at these demands, in the interregnum, the management will pay the assured minimum wage starting from 1st December 2004 since award was made on 26th November 2004. He has further stated that as far as arrears are concerned, the management is agreeable to pay Rs.4,000/- per month as the assured minimum. Both these statements of Mr.Rele are without prejudice to the submission that revision to the assured minimum of Rs.6,000/- per month was not justified. Mr.Singhvi has taken instructions and is agreeable to receive this amount of Rs.6,000/- per month without further escalation in the rates as directed in the impugned award and also to receive assured minimum wage of Rs.4,000/- per month towards arrears. Both of these payments will be received by the employees also without prejudice.

6. In view of these statements made by both counsel on instructions, by consent of the parties, we set aside the impugned award and revive the proceedings before the Board. The Board will go into the charter of demands afresh. While going into the charter of demands, it will be open to the Board to go into the submissions of the management of reduction in complement if

permissible in law. As stated by the counsel, in the interregnum, the management will pay the assured minimum wage @ Rs.6,000/- per month starting with the salary of December 2004 payable in January 2005. The management will also pay the arrears prior thereto at the rate of assured minimum wage of Rs.4,000/- per month. Both these payments and the receipt will be without prejudice to the rights of both parties. This will mean that wherever the employees have received wages less than Rs.4,000/- per month, the management will pay the difference. Similarly, where the wages are less than Rs.6,000/- per month, the management will pay the difference. In the interregnum, the earlier settlement will continue to operate for all purposes.

7. In the petition filed by the management there is a challenge to the letter dated 11th October 2004 under which the management is called upon to deposit Rs.1,66,683.35 Ps. with the Board. The management will deposit this amount with the Board. The management wants to raise a question as to whether it can take the work from the permanent employees which the Mathadi Workers are claiming to be their work. It will be open to

the management to raise this issue in the revived proceedings, again if permissible in law. In view of this order no further coercive measures will be taken. Mr.Rele states that all the payments will be made by end of April 2005.

8. The Board will endeavour to decide the revived proceedings within four months hereafter and preferably by end of August 2005. Both the petitions stand disposed off with this order.

(H.L.GOKHALE, J.)

(S.C.DHARMADHIKARI, J.)